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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/717,905 | 11/21/2003 | Kweon Son | 9988.068.00-US | 7370 |
| 30827 7590 04/03/2008 MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006 | | | | |
| EXAMINER | | | | |
| PERRIN, JOSEPH L | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1792 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 04/03/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/717,905

Applicant(s)

SON, KWON

Examiner

Joseph L. Perrin, Ph.D.

Art Unit

1792

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Examiner's Comments

1. Applicant notes the substance of the interview as being discussed in the remarks of the response. However, regarding the rejection under § 112, second paragraph, the broadening of the claim by removal of all structural limitations was not discussed in the interview or indicated as placing the application in better condition for allowance. While language was discussed to better define and clarify the claimed invention during the interview, as well as the Examiner's request for clarification of how the claimed invention patentably distinguishes from the well known general concept of programming programmable washing machines (as required but 37 CFR § 1.111(b)), no such language appears in the claim amendment or clearly pointed out in the arguments. Applicant is requested to clearly explain how the claimed invention defines a patentably distinguishing invention to rebut the Examiner's *prima facie* rejection. Simply alleging the claimed invention "patentably distinguishes" without providing sufficient showing or evidence (i.e. more than simply restating the claimed language) as to exactly how such language defines a patentable invention over the prior art of record is not considered a sufficient showing under 37 CFR § 1.111(b). This is particularly relevant in the instant case as the programming of washing machines with desired washing programs (i.e. "customized parameters") is common knowledge in the washing machine art (as evidenced by at least the prior art of record) and it is entirely unclear how the claimed invention, which is directed to broad and general terms for reprogramming a

programmable washing machine, distinguishes from what is known in the washing machine art, much less how the claims patentably distinguish from the prior art of record, and no such point of novelty is readily apparent in the invention claimed.

Response to Arguments

2. Applicant's amendment to claim 1, effectively removing all structural limitations with the exception of "washing machine", has resulted in the withdrawal of the 112 rejection for omitting essential cooperative relationship of the structure and method steps. However, such amendment significantly broadens the scope of the claims and the claims will be examined accordingly.
3. Applicant's arguments filed 06 February 2008 have been fully considered but they are not persuasive.
4. Regarding PAYNE, applicant argues that the PAYNE "parameters are initialized each time a user operates a machine" and "fails to describe any opportunity for a user to recall, from a memory, a set of customized parameters...that are stored in the memory." While not subscribing to applicant's position, even if, *arguendo*, one were to interpret PAYNE as describing such operation, applicant's arguments are not commensurate in scope with the claimed invention. First, it is noted that the broad and general terminology "customized parameters" read on any parameters inputted by a user to replace a default parameter, common knowledge in the art and disclosed in PAYNE. Secondly, the method as claimed contains optional language of displaying customized parameters if the customized parameters are stored in a memory. Thus,

the claimed "displaying" step and associated steps as claimed are optional steps.

Thirdly, the broad and general terminology "receiving a selection of a memory function" could read on various functions including the function of simply having a parameter stored in memory and the controller replacing the stored parameters with different parameters, also common knowledge in the art and disclosed in PAYNE. Generally, the inputting of washing parameters in a *programmable* washing machine controller is a standard operation, otherwise there would be no need in the controller to be *programmable*. Thus, the input of desired washing parameters in a programmable washing machine controller is not considered a point of novelty. Accordingly, applicant's arguments are not commensurate in scope with the claimed method and do not patentably distinguish from the state of the art.

5. Furthermore, on pages 6-7 of the response, applicant points to Figures 4, 5 & 6 of PAYNE and attempts to argue that PAYNE does not disclose the claimed "recall" function of recalling the customized parameters, pointing to the embodiment of Figures 4-6. Applicant further argues that in PAYNE, "parameters are initialized each time a user operates a machine." First, applicant's arguments with respect to the "recall" limitation and initializing "each time" is not persuasive because the "recall" and "each time" limitations are not claimed in claim 1. Second, it is important to understand that the entire purpose of the PAYNE washing machine is to provide a reprogrammable washing machine controller with customized parameters which overwrite the default parameters and are saved in the memory of the controller (see the abstract and col. 2, line 5 *et seq.*). PAYNE also discloses that is well known in the washing machine art to

customize washing parameters in a washing machine and replace default parameters with the customized parameters (see entire background section in col. 1 of PAYNE). In order for the washing machine of PAYNE to perform the customized washing function, obviously the customized parameters must be recalled from the stored memory once the controller of PAYNE is reprogrammed. In the embodiment relied upon by applicant, PAYNE discloses updating the parameters in the programmable controller. Clearly, the narrow disclosure of PAYNE reads on the broad and general claim limitations of installing customized parameters and updating the parameters, which common sense dictates that the updating of parameters are being "recalled" from a stored memory. It is noted that the only structure claimed in the instant invention is a "washing machine" and other structures relied upon by applicant, such as "stored memory", are not claimed but rather the simple application of a "memory function" is claimed which broadly reads on any controller function which reprograms or updates parameters. Thus, the broad and generalized method steps of reprogramming a washing machine controller with customized parameters and applying such parameters, as claimed, is fully anticipated by PAYNE, both in the background prior art section and in the disclosed invention. Accordingly, PAYNE clearly anticipates applicant's washing method as claimed.

6. On page 8 regarding the rejection of claim 10 under § 103, applicant argues the limitations of claim 1 as discussed in the § 102 rejection over PAYNE above and purported "shortcomings" of PAYNE. This is not persuasive for reasons of same indicated in the § 102 rejection over PAYNE as PAYNE holds no shortcomings but rather clearly anticipated the broadened control method as claimed.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 4-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims refer to structural limitations which were deleted from claim 1 in the instant amendment.
9. Claim 4 recites the limitation "the memory" in line 5. There is insufficient antecedent basis for this limitation in the claim.
10. Claims 5, 6, 8 & 9 recites the limitation "the memory key". There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
12. Claims 1-9 & 18 are rejected under 35 U.S.C. 102(b) as being anticipated by PAYNE (previously cited). Re claims 1-4 & 18, PAYNE teaches a washing machine having memory for storing default washing parameters and customizing the washing parameters via input means for selectively performing washing programs in a controller (with structure readable on a course control device and course execution device; see entire document, for instance, the abstract, col. 1, line 16 *et seq.* and col. 2, line 5 *et seq.*). The updating of the status on the display reads on displaying the default and

updating to the customized program which necessarily includes washing course parameters by clearing the default and storing the customized via programmable memory (see, for instance, col. 1, lines 44-54, Figure 1 and relative associated text, and col. 9, lines 5-6). Re claims 5-9, the position is taken that the user selection in PAYNE reads on the claimed pressing or actuating a "memory key" since PAYNE clearly discloses a user inputting customized parameters which are stored in memory and such function fully anticipates "pressing" a "memory key" for a "predetermined time" of "less than three seconds".

Claim Rejections - 35 USC § 103

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over PAYNE in view of U.S. Patent Publication No. 2002/0163440 to TSUI. Recitation of PAYNE is repeated here from above. Although PAYNE clearly discloses inputting by user to customize and store parameters PAYNE does not expressly disclose inputting by pressing for at least three seconds to customize and store parameters. TSUI teaches that it is known to press and hold a controller button in an appliance control system to store desired parameters in a memory (see paragraph [0042]). The position is taken that it would have been within the level and skill of one having ordinary skill in the art at the time the invention was made to provide the inputting means of PAYNE of selecting parameters which are stored to memory with the function of press holding the inputting

means to store to memory, as disclosed by TSUI, in order to effectively store parameters. Moreover, there would be a reasonable expectation of success in programming the controller of PAYNE to require a press hold of the input to perform a storage function.

Further, regarding the press hold time of "greater than three seconds", it is to be expected that a change in range would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art, such ranges are termed critical ranges and the applicant has the burden of proving such criticality. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233, 255 (CCPA 1955). See also *In re Waite*, 77 USPQ 586 (CCPA 1948); *In re Scherl*, 70 USPQ 204 (CCPA 1946); *In re Imscher*, 66 USPQ 314 (CCPA 1945); *In re Norman*, 66 USPQ 308 (CCPA 1945); *In re Swenson*, 56 USPQ 372 (CCPA 1942); *In re Sola*, 25 USPQ 433 (CCPA 1935); *In re Dreyfus*, 24 USPQ 52 (CCPA 1934). The Examiner further notes that the press hold storage function is common knowledge in the controller art and is not in itself considered a point of novelty. An example of such common knowledge in the controller art is the press hold storage function of electronics such as radio input controls.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent Publication Nos. 2003/0024057 to HERR et al. & 2003/0154560 to BEHRENS et al., which disclose the well known concept of controlling a washing machine by receiving a selection of one of a plurality of courses for execution, displaying default parameters, receiving a selection of memory function, and in response to the receipt of selection of memory function, clearing the default parameters and displaying a set of customized parameters corresponding to the selected course stored in the memory of the controller, and initializing the execution of the selected course according to the displayed parameters (i.e. wash cycle).

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 8:00-4:30.
19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/
Joseph L. Perrin, Ph.D.
Primary Examiner
Art Unit 1792

JLP